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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,858	03/30/2001	David W. Cannell	05725.0844-00	3869

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EXAMINER

FUBARA, BLESSING M

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/820,858	CANNELL ET AL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Blessing M. Fubara	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-150 is/are pending in the application.
- 4a) Of the above claim(s) 10-12, 21-23, 27, 28, 30, 32, 34, 36 and 49-150 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-20, 24-26, 29, 31, 33, 35 and 37-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Examiner acknowledges receipt of request for extension of time, amendment and remarks filed 10/04/04. Claims 1-150 are pending. Claims 10-12, 21-23, 27, 28, 30, 32, 34, 36 and 49-150 are withdrawn from consideration.

#### ***Claim Rejections - 35 USC § 112***

The objection to the use of the term derivatives is withdrawn in light of the amendment to the relevant claims reciting the derivatives.

#### ***Claim Rejections - 35 USC § 102***

1. Claims 1-9, 16, 17, 19, 20, 24-26, 29, 31, 33, 35 and 45-47 remain rejected under 35 U.S.C. 102(b) as being anticipated by Gruber (US 5,597,811).

Applicants argue that the proviso that the amino groups are unsubstituted overcomes Gruber because Gruber does not describe a composition in which the amino groups of the C<sub>5</sub> to C<sub>7</sub> polysaccharide is unsubstituted.

2. Applicants' arguments filed 10/04/04 have been fully considered but they are not persuasive.

Gruber discloses a composition that contains glucosamine and glucosamine is a polysaccharide and the amine group is not considered substituted. Instant claim 26, for example, recites glucosamine as a hexosamine. Upon further consideration, the proviso does not overcome Gruber.

***Claim Rejections - 35 USC § 103***

3. Claims 1-9, 13-20, 24-26, 29, 31 and 37-48 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al. (US 2002/0102228) in view of Gruber (US 5,597,811) and further in view of Yoshihara et al. (US, 5,332,581).

Applicants argue that Gruber discloses polyglucosamine derivatives and that the instant claims require that the amino groups be unsubstituted when the polysaccharide is a C<sub>5</sub> to C<sub>7</sub> polysaccharide.

4. Applicants' arguments filed 10/04/04 have been fully considered but they are not persuasive.

Polyglucosamines are not considered as substituted amino groups but rather as polysaccharides that have the amine groups in the glucose units. It is also noted that claim 26 recites glucosamines.

5. The rejection of claims 151 and 152 under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al. (US 2002/0102228) in view of Rath et al. (US 5,993,792) is moot in light of the cancellation of the claims 151 and 152.

No claim is allowed.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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